

California Fair Political Practices Commission
MEMORANDUM

To: Chairman Getman, Commissioners Downey, Knox, and Swanson

From: John W. Wallace, Assistant General Counsel
Luisa Menchaca, General Counsel

Subject: **Nonsubstantive Amendments to Regulation 18700: Basic Rule;
Guide to Conflict of Interest Regulations.**

Date: November 22, 2002

I. Introduction

This item contains a nonsubstantive amendment to regulation 18700. As a change without regulatory effect, the Commission need not follow the procedure set out in regulation 18312. Rather, the change can be filed with the Office of Administrative Law without formal Commission action. As an example, the same chart that is the subject of this memorandum has previously been amended twice and filed as a nonsubstantive change. However, since this memorandum proposes that the chart be eliminated, we are bringing this to the Commission for their review and concurrence.

II History Background

In May 1998, the Commission initiated the Conflict of Interest Regulations Improvement Project and divided it into two phases. Phase 1 involved the restructuring of the regulations into a more “user-friendly” format without making substantive changes. The Commission sought to establish a *process*—a step-by-step, repeatable procedure—for analyzing conflict of interest situations. In October 1998, the Commission adopted the eight-step conflict-of-interest analysis that concluded Phase 1. Phase 2 of the project was initiated in October 1999. Phase 2 was intended to deal with substantive amendments to the conflict-of-interest regulations and it was completed in December 2000.

In light of the dramatic restructuring and renumbering of the conflict-of-interest regulations, many of which have been in place since 1988, regulation 18700 was amended to include a chart showing the old locations of the most important provisions and their new locations after Phase 1 of the project. In the September 18, 1998 staff memorandum to the Commission regarding “Consideration of adoption of restructured conflict of interest regulations,” the chart was described as follows:

“The other significant revision to the draft since the September 1998 meeting is the addition of a ‘conversion’ or ‘finder’ table in a note following proposed Regulation 18700. This table, which is not part of the regulation and does not have the force of law, is organized by the

existing section numbering. It allows the user with a reference to the existing provision to find the corresponding provision in the restructured regulations. (For example, a user reading an advice letter which refers to existing Regulation 18702.2 could refer to the table to learn quickly that these rules are in proposed Regulation 18705.1(b).) Assuming that the proposed regulations are adopted, this seems to be an useful tool. Including the table as a note below the introductory regulation would assure the widest possible availability of the tool.”

Since 1998, the Commission has revisited the regulations on several occasions, revising the language of a variety of the regulations. In December 2000, Phase 2 of the project was completed. Staff updated the chart to reflect not only the changes in October 1998, but also the subsequent changes in 2000. In December 2002, additional changes were made to the conflict-of-interest regulations. And again, in September 2002 changes were made to the regulations, including the restructuring of regulation 18704.2.

Staff believes that after so many changes, the chart is no longer a useful tool. Generally such charts are intended to deal with wholesale changes to the regulations such as the renumbering and restructuring that occurred in 1998. These charts are not useful when the regulations are being changed piecemeal over time. Thus, staff is proposing that the chart be eliminated in its entirety. Since the chart is merely a note to the regulation, it is not a substantive provision and can be deleted without impacting the interpretation of regulation 18700.

Staff Recommendation: Approve deletion of the chart/note to regulation 18700.